

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 18.09.2018
CORAM

THE HONOURABLE Mr.JUSTICE V.BHARATHIDASAN

W.P.No.22056 of 2018
and
W.M.P.No.25842 of 2018

S.Subramanian

... Petitioner

Vs

- 1.The Election Commissioner
Tamilnadu State Co-operative Societies
Election Commission
No.273, Anna Salai
Teynampet, Chennai 600 018.
- 2.The District Election Officer
Joint Registrar of Co-operative Societies
Thiruvarur District.
- 3.The Election Officer/Joint Registrar,
No.ZA-93, Ilayur Primary
Agricultural co-operative Credit Society
Ilayur Village,
Kodavasal Taluk,
Thiruvarur District.

4.V.Mahendran

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the first respondent herein to consider the representation of the petitioner dated 07.08.2018 and consequently direct the respondents 2 and 3 herein to conduct re-election to the office bearers of third respondent for the post of President and Vice President simultaneously.

For Petitioner :Mr.Veera Associates

For Respondents :Mr.M.S.Palaniswamy
Standing Counsel for R1

: Mr.L.P.Shanmugasundaram
Special Government Pleader
for R2 and R3

O R D E R

This writ petition has been filed seeking direction to the first respondent to consider the petitioner's representation dated 07.08.2018 and also to conduct re-election to the Office Bearers of third respondent society.

2. The grievance of the petitioner is that the election to the Office Bearers of the third respondent society was scheduled to be held on 27.04.2018 and the petitioner filed his nomination to the post of President, which was also received by the third respondent/ Election Officer. Thereafter the election was stopped pursuant to the order passed by this Court. Subsequently, without the knowledge of the petitioner, one Mahendran, the fourth respondent herein was elected as President and one Anbalagan was elected as Vice President. In the said circumstances, the petitioner has made a representation to the second Respondent/District Election Officer to consider his representation to cancel the election and conduct the election in a democratic manner. Since, it was not considered, the present writ petition has been filed.

3. Today, when the matter is taken up for hearing, the learned counsel appearing for the respondents 2 and 3 submitted that as per the re-schedule for election, the election to the Office Bearers of the third respondent Society was scheduled to be held on 27.04.2018, and, nominations have to be filed between 10.00 A.M to 11.00 A.M, whereas, the petitioner has filed his nomination at about 4.00 P.M. Hence, the petitioner's nomination has been rejected. The fourth respondent has filed his nomination in time and the election officer declared him elected.

4. At this stage, the learned counsel for the petitioner would submit that even though the petitioner has filed his nomination at about 11.00 A.M, the Election Officer deliberately mentioned the time as 4.00 p.m. and rejected his nomination. He has also produced the copy of the nomination, which is said to have been filed at 11.00 A.M., which was also signed by the Election Officer.

5. Today, Election Officer is also present before this court and disputed that he never received the nomination of the petitioner at 11.00 a.m., and the signature found place in the nomination is also not at all the signature of the Election Officer.

6. Considering the above dispute regarding filing of nomination by the petitioner, this Court is of the view that, an enquiry should be conducted by the District Election Officer to find out whether the nomination has been

filed at 11.00 a.m. as stated by the petitioner or at 4.00 p.m. as submitted by the Election Officer.

7. In the said circumstances, the second respondent is directed to conduct an enquiry and find out whether the petitioner's nomination was filed at 11.00 A.M as stated by the petitioner after verifying the relevant records and also the video footage available in the society premises and after hearing the petitioner and other interested parties and pass suitable orders within a period of six weeks from the date of receipt of a copy of this order.

8. With the above directions, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(Co)

//True Copy//

Sub Assistant Registrar

mrp

To

- 1.The Election Commissioner
Tamilnadu State Co-operative Societies
Election Commission
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Teynampet, Chennai 600 018.
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- 3.The Election Officer/Joint Registrar,
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Agricultural co-operative Credit Society
Ilayur Village,
Kodavasal Taluk,
Thiruvavarur District.

+1cc to Mr.L.P.Shanmugasundaram , Advocate SR.No. 64497
+1 CC TO GOVERNMENT PLEADER SR.NO. 64995

W.P.No.22056 of 2018

ASK(26/10/2018)